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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/719,374
Filing Date: November 21, 2003
Appellant(s): ROUTH ET AL.

W. Brinton Yorks, Jr.
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 11/02/2009 appealing from the Office action mailed 07/15/2009.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,924,988	Burris et al.	6-1999
5,822,544	Chaco	10-1998

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 22-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pflugrath et al. U.S. Patent No. 5,603,323 in view of Burris et al. U.S. Patent No. 5,924,988 and further in view of Chaco et al. U.S. Patent No. 5,822,544.

With respect to claim 22, Pflugrath recites a method comprising the steps of installing a network (Fig. 1 element 104; col. 3 lines 39-41), obtaining a diagnostic signal acquisition unit (Fig. 1 element 100; col. 3 lines 36-37), coupling the diagnostic signal acquisition unit to the data network (Fig. 1 element 104), coupling a network data processor to the data network (Fig. 1 element 120), and obtaining a display unit (Fig. 2 element 40; col. 4 lines 14-20).

Pflugrath does not recite a plurality of units, however; Applicant is merely repeating the steps of Pflugrath for more than one signal acquisition unit and display unit. It has been held that the, "mere duplication of parts has no patentable significance unless a new and

unexpected result is produced.” (In re Harza, 274 F.2d 669, 124 USPQ 378 (CCPA 1960)). It would therefore have been obvious to one of ordinary skill to apply the teachings to Pflugrath for a plurality of units to be able to assist more patients at one time and increase the capacity of the system.

Pflugrath does not teach display units that are separable from the diagnostic signal acquisition units, however Burris does (Abstract). It would therefore have been obvious to one of ordinary skill in the art to combine the teachings of Pflugrath and Burris to have display units separable from the diagnostic acquisition units in order to maximize ergonomics.

Pflugrath recites a central server or network data processor communicating with a selected ultrasound system (Col.7 lines 19-21). Pflugrath and Burris do not specifically recite the network data processor processing an image from a selected one of the plurality of diagnostic signal acquisition units; however, Chaco does disclose a central processor which processes and communicates patient data to a plurality of patient and nurse remote stations (Col. 4 lines 10-18). It would therefore have been obvious to one of ordinary skill in the art to combine the teachings of Pflugrath, Burris and Chaco in order to facilitate data communications.

Claims 25 is rejected under the analysis of claim 22.

Claim 23 is rejected, as Pflugrath recites a control unit and coupling the control unit to the data network (Fig. 2 element 20; col. 3 lines 66-67, col. 4 lines 1-2).

Claim 24 is rejected, as Pflugrath discloses an ultrasound system (Abstract).

Claim 26 is rejected, as Pflugrath discloses a diagnostic signal acquisition having expanded capabilities (Col. 3 lines 25-29).

With respect to claim 27, Pflugrath recites loading upgrade software into the network data processor (Col. 3 lines 51-58).

Claim 28 is rejected as Pflugrath recites uploading upgraded software from the network data processor to at least one diagnostic acquisition unit (Col. 3 lines 51-58).

Claim 29 is rejected, as Pflugrath discloses adding new processing capability to the network (Col 3 lines 54-58).

(10) Response to Argument

Appellant argues that "Pflugrath et al. does not have a common processor for the data of multiple imaging systems". Pflugrath recites a central server or network data processor communicating with a selected ultrasound system (Col.7 lines 19-21) and a processor that processes images (Fig. 2 element 20). Examiner acknowledged that Pflugrath and Burris do not specifically recite the network data processor processing an image from a selected one of the plurality of diagnostic signal acquisition units. However, the language, "the network data processor being structured to process the diagnostic signals..." is non-functional descriptive material that does not further limit the method step of coupling a network data processor to the data network. Also, Chaco does disclose a central processor which processes and communicates patient data (e.g. visual, audio) to a plurality of patient and nurse remote

stations (Fig. 4 elements 432; col. 4 lines 10-18). Combining the teachings of the prior art would allow Chaco's central processor to process visual data (e.g., images as recited in Pflugrath) from for example a patient's station to a nurse's station as shown in figure 4. One of ordinary skill in the art would combine the prior art teachings as their systems would have performed the same functions when combined as individually and produced the same results.

Appellant argues that the prior art fails to teach obtaining a plurality of display units which are structured to display diagnostic images. First, Examiner notes that Appellant's claim 22 is directed to a method; thus the language, "structured to display diagnostics images..." is directed to the intended use of the obtained display units and constitutes non-functional descriptive material that does not further limit the method step of obtaining a plurality of display units. Second, Pflugrath recites obtaining a display unit (Fig. 2 element 40; col. 4 lines 14-20). He does not specifically recite a plurality of units, however; Applicant is merely repeating the steps of Pflugrath for more than one signal acquisition unit and display unit as recited in the claim, "the number of display units obtained corresponding to at least the number of acquisition units..." It has been held that the, "mere duplication of parts has no patentable significance unless a new and unexpected result is produced." (In re Harza, 274 F.2d 669, 124 USPQ 378 (CCPA 1960)). It would therefore have been obvious to one of ordinary skill to apply the teachings to Pflugrath for a plurality of units to be able to assist more patients at one time and increase the capacity of the system.

Pflugrath does not teach display units that are separable from the diagnostic signal acquisition units, however Burris does (Abstract). It would therefore have been obvious to

one of ordinary skill in the art to combine the teachings of Pflugrath and Burris to have display units separable from the diagnostic acquisition units in order to maximize ergonomics.

Appellant argues that for claim 23, the prior art does not suggest that the control units are separated from the diagnostic signal acquisition units. Examiner points out that such a feature is not recited in claim 23. Furthermore, the language pertaining to the structure of the system components constitutes non-functional descriptive material that does not further limit the claimed method steps.

For claim 28, Appellant argues that Pflugrath does not provide software upgrades through a network data processor for a distributed imaging system. However, Pflugrath discloses a network data processor providing software upgrades to at least one diagnostic acquisition unit (Col. 3 lines 51-58). The other functions the network processor is intended for does not further limit the step disclosed in claim 28.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/VALERIE LUBIN/

Examiner, Art Unit 3626

Conferees:

Vincent Millin /vm/

Appeals Conference Specialist

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Primary Examiner, Art Unit 3626